

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

SIMPSON VENTURES, INC.,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 3:07CV48-WHA
)	
MID-WEST METAL PRODUCTS CO.,)	
INC.,)	
)	
Defendant.)	

ORDER

This cause is before the court on Defendant Mid-West Metal Products Co, Inc.’s (“Mid-West”) Motion to Extend Deadline for Certain Discovery and to Extend Deadline for Dispositive Motions (Doc. #40). The Plaintiff, Simpson Ventures, Inc. (“Simpson”), has filed an opposition to the Motion.

Mid-West seeks to extend the deadline for discovery of liability expert witnesses, which has been set by agreement of the parties on June 15, 2008, and to extend the dispositive motion deadline which is August 11, 2008. Mid-West seeks these extensions because the Federal Circuit has not yet issued an en banc decision in *Egyptian Goddess, Inc. v. Swisa, Inc.*, which Mid-West contends could change the nature of patent law in such a manner that additional discovery from the liability experts already identified would be required in this case. According to the submissions of the parties, the Federal Circuit will hear oral argument in the *Egyptian Goddess* case on June 2, 2008.

Simpson opposes the requested extensions because the Federal Circuit’s date of decision is unknown, and because that decision may not be the end of that litigation. Simpson also

contends that Mid-West's requested extensions are related not to the pendency of the Federal Circuit's case, but to deficiencies in Mid-West's expert evidence.

Because the Federal Circuit's oral argument is set for June 2, and the dispositive motion deadline in this case of August 11, 2008 is relatively soon after that date, it appears to this court to be a reasonable request to move the dispositive motion deadline to a time which will allow both the parties and the court to evaluate the Federal Circuit's decision, should it be issued this year. Therefore, the court will extend the time for dispositive motions, and, to allow for time to consider any such motion before the pre-trial hearing, will extend the trial date to the court's next eastern division trial term, which is April 6, 2009.

The discovery of expert witnesses deadline, however, is one which need not be moved at this time. Should *Egyptian Goddess* be decided this year and additional expert testimony be required, the court will take up any request for additional discovery at that time.

Accordingly, it is hereby ORDERED that the Motion to Extend Deadline for Certain Discovery and to Extend Deadline for Dispositive Motions (Doc. #40) is DENIED in part and GRANTED in part as follows:

1. The Motion is DENIED to the extent that it seeks an extension of the June 15 deadline for discovery of liability expert witnesses.

2. The Motion is GRANTED to the extent that the date of the trial of this case, presently set on November 17, 2008, is re-set on **April 9, 2009**, the pre-trial hearing date which is currently October 24, 2008 is re-set on **March 9, 2009** and the dispositive motion deadline which is currently August 11, 2008 is re-set on **December 8, 2008**.

Done this 28th day of May, 2008.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON

SENIOR UNITED STATES DISTRICT JUDGE